

## Article 2: Health Regulated Businesses and Activities

### Division 1: Food and Drug Handling, Distribution and Sales

*(Added 2-10-1953 by O-5486 N.S.)*

#### §42.0101 Health Regulated Business Defined — Regulated

Health regulated businesses shall include any restaurant, itinerant restaurant, vessel, cafe, cafeteria, lunch counter, soda fountain, ice cream parlor, soft drink stand, fruit or produce stand, grocery, bakery, confectionery, delicatessen store, cannery, pet shop, bottled water establishment, candy factory, packing plant, concession (temporary or permanent), winery, liquor establishment, fish market, vending vehicle, vending machine, mobile food unit, pushcart, caterers, catering equipment rental establishment, or other place where food or beverages are prepared for sale, or are sold, stored, distributed or displayed for sale, or are caused or permitted to be given away. They shall be regulated as herein provided.

Health regulated businesses shall not include private homes or cooperative arrangements by employees who purchase food or beverages for their own consumption and where no employee is assigned full time to care for or operate equipment used in such arrangement; nor shall the term "health regulated business" include churches, church societies, private clubs or other non profit associations of a religious, philanthropic, civic improvement, social, political, or educational nature, which purchase food, food products, or beverages or which receive donations of food, food products, or beverages, for service without charge to their members, or for service or sale at a reasonable charge to their members or to the general public at occasional fund-raising events, for consumption on or off the premises at which the food, food products, or beverages are served or sold, if the service or sale of such food, food products or beverages does not constitute a primary purpose of functions of the club or association, and if no employee or member is assigned full time to care for or operate equipment used in such arrangement.

*(Amended 1-23-1989 by O-17223 N.S.)*

#### §42.0101.1 Food Handling Establishments — Exempt Vehicles and Vending Machines

Notwithstanding the foregoing, the following are exempt from the permit requirements of this chapter and shall not be considered in determining fees for health permits:

- (a) Wholesale and retail delivery trucks transporting nonperishable previously inspected and packaged foods or beverage products.

- (b) Wholesale and/or retail milk delivery trucks.
- (c) Wholesale delivery ice cream trucks.
- (d) Retail grocery delivery trucks.
- (e) Wholesale produce trucks.
- (f) Wholesale carbonated and alcoholic beverage delivery trucks.
- (g) Wholesale and/or retail bottled water delivery trucks.
- (h) Vending machines dispensing wrapped, canned or bottled nonperishable foods or beverages.
- (i) Vessels under the jurisdiction of the United States Public Health Service.
- (j) Wholesale meat trucks.

A wholesale delivery truck is a vehicle that delivers food to a consumer, retailer or wholesaler pursuant to prior order; wholesale delivery truck does not include vehicle from which selling is done directly by a driver, salesman or other person.

A retail delivery truck is any vehicle used for the transportation of food or beverage products which is not a wholesale delivery truck as defined herein.  
(Amended 3-7-1983 by O-15914 N.S.)

#### **§42.0101.2 Perishable Food — Prohibition of Itinerant Sale**

Except as otherwise expressly provided in this Chapter, no person shall sell, offer for sale or distribute perishable food from door to door or from place to place by any of the following means:

- (a) by hand-carrying such food on his person or in a container;
- (b) by transporting such food by means of handcart, pushcart or bicycle cart;
- (c) by carrying or transporting such food in any other type of vehicle propelled by muscular power either human or animal.

(Amended 8-16-1982 by O-15803 N.S.)

**§42.0102 Food Handling Establishments — Sanitary Score**

A health Permit shall not be issued to any food handling establishment scoring less than 80% on an official score sheet approved by the Director of Public Health. Establishments failing to maintain a score of at least 80% shall be closed by the Health Officer if a score of at least 80% is not achieved within thirty (30) days after written notice of deficiency is sent by certified mail to the address of the establishment. The Health Officer shall issue an alphabetical grade card to each restaurant inspected, which grade card shall be displayed at all times while the restaurant is open to the public. Restaurants scoring 90% or more on the score card shall receive an "A" grade card. Those scoring 80–89.5% shall receive a "B" grade card. Those scoring below 80% shall receive a "C" grade card.  
*(Amended 4–13–1965 by O–9194 N.S.)*

**§42.0103 Food Handling Establishments — Products of Uninspected Establishments Prohibited**

No person shall sell, distribute, offer for sale, vend or give away to the public any manufactured or prepared food product in the City of San Diego, unless it is the product of an establishment regularly inspected by the Health Department or another health department inspection service recognized and approved by the Director of Public Health.  
*(Retitled to add "Food Handling Establishments –" and amended 4–13–1965 by O–9194 N.S.)*

**§42.0104 Food Handling Establishments — Food to be Covered**

Articles of food intended for human consumption without further cooking, washing or other preparation shall be enclosed by glass or an equivalent substance, approved by the Health Officer, to prevent handling by persons other than the seller, and to prevent such articles from coming in contact with any deleterious substance.

This section shall not apply to premises where steam or other service tables are in use under special permits issued by the Director of Public Health.  
*(Retitled to add "Food Handling Establishments –" and amended 4–13–1965 by O–9194 N.S.)*

**§42.0104.1 Refrigeration of Perishables**

Perishable food and beverage products shall be maintained at a temperature of not more than 45 degrees Fahrenheit from the time such food or beverage products are

manufactured, processed or otherwise made suitable for human consumption, until delivered or served to the consumer. All packages of perishable food or beverage products shall be conspicuously labeled "PERISHABLE — KEEP REFRIGERATED."

*(Amended 3-7-1983 by O-15914 N.S.)*

#### **§42.0104.2 Pre-Prepared Sandwiches**

- (a) As used in this section, a pre-prepared sandwich is a sandwich which is not intended for immediate consumption by the public.
- (b) No person shall give away, trade, or sell to the public within the City of San Diego any pre-prepared sandwich unless such sandwich is made in conformity with the requirements of this section.
  - (1) The sandwich shall be prepared and wrapped at an establishment having in force a health permit issued pursuant to this Chapter. If prepared elsewhere, it must be prepared at a regularly inspected location approved by the Director of Public Health.
  - (2) No sandwich shall be sold more than 72 hours after preparation. Each sandwich shall be clearly stamped or marked with the last date the sandwich may be sold and shall bear the name and address of the person or company that prepared it.
  - (3) From the time of preparation until delivery or service to the retail consumer, the sandwich shall be refrigerated and maintained at a temperature of 45 degrees Fahrenheit or lower, or the growth of pathogenic microorganisms inhibited by a method approved in writing by the Director of Public Health.
  - (4) Frozen pre-prepared sandwiches shall be frozen from the time of preparation until loaded for delivery to the retailer, thereafter they shall be maintained at a temperature of not more than 42 degrees Fahrenheit until sold to the retail consumer, provided, however, that said sandwiches may be heated prior to sale if maintained at a temperature of at least 140 degrees Fahrenheit after heating until sale, such heated sandwiches may not be sold except on the day on which they are heated. No sandwiches which have been frozen shall be sold more than fifteen (15) days after unfreezing or more than three (3) days after delivery to a food vending vehicle.

- (c) No pre-prepared sandwich shall be given away, traded or sold more than seventy-two (72) hours after its preparation, except as provided in Section 42.0130, unless such sandwich is frozen immediately after preparation and kept frozen until loading for delivery to the retailer. Sandwiches so frozen may be loaded for delivery to the retailer within one (1) year after preparation. If the delivery date is in excess of one (1) year, such longer period must be approved in writing by the Director of Public Health.
- (d) Frozen sandwich cartons shall bear a legend reading "KEEP FROZEN."
- (e) Cartons containing frozen sandwiches shall bear a legend showing the date of preparation of the contents.
- (f) The frozen sandwich packages shall be clearly stamped or marked with the last date the sandwich may be sold and shall bear the name and address of the person or company that prepared it.

*(Amended 3-7-1983 by O-15914 N.S.)*

**§42.0107 Food Handling Establishments — Floors, Walls, Ceilings, Drainboards, Food Preparation and Storage Areas**

The floors of food preparation and food storage areas of establishments shall be constructed of smooth, non-absorbent material and maintained in good repair and in clean and sanitary condition. The walls and ceilings of food preparation areas shall be smooth and shall be painted with light colored oil paint or other approved finishing material and maintained in good repair and in a clean and sanitary condition. The walls and ceilings of food storage areas shall be maintained in good repair and in a clean and sanitary condition. The walls in the proximity of sinks, mixers, stoves, ranges or other equipment where water, grease or other matter is likely to be splashed on the walls, shall be constructed of tile, or other approved material to a height sufficient to protect the walls; provided, that the walls behind stoves may be flashed with metal. All drainboards shall be made or constructed of metal, tile or tile substitutes.

*(Amended 4-13-1965 by O-9194 N.S.)*

**§42.0108 Food Handling Establishments — Toilets and Wash Rooms**

Every establishment shall be equipped with a water flush toilet, hand basin with hot and cold running water, hand soap, toilet tissue and single-use hand towels. Floors of toilets and wash rooms shall be finished with a smooth, nonabsorbent surface of concrete, tile or other nonabsorbent material approved by the Health Department. The interior floor area of toilet rooms shall be as provided in Section 42.0108.2.

*(Retitled to add "Food Handling Establishments –" and amended 4–13–1965 by O–9194 N.S.)*

#### **§42.0108.1 Food Handling Establishments — Toilets and Wash Rooms**

Establishments in which five (5) or more employees are on duty at the same time, not all of whom are of the same sex, shall have separate toilet facilities for each sex. The facilities shall be convenient to, but shall not open into a room in which food is served, stored, or prepared unless separated by a solid door and an anteroom ventilated to the outer air. The interior floor area of toilet rooms shall be as provided in Section 42.0108.2.

Restaurant kitchens in which three or more persons are employed at the same time shall be equipped with a hand basin, hot and cold running water, hand soap and single use hand towels.

*(Added 4–13–1965 by O–9194 N.S.)*

#### **§42.0108.2 Food Handling Establishments — Toilets and Wash Rooms**

Every establishment which sells beer or liquor pursuant to an on-sale liquor or beer and wine license shall provide separate toilet facilities for each sex. The facilities shall include at least one (1) toilet, one (1) urinal and one (1) wash basin for men and at least one (1) toilet and one (1) wash basin for women. The interior floor area of a toilet room shall not be less than eighteen (18) square feet. No toilet room shall open into any room where food is served, stored or prepared, unless separated by an anteroom having at least eighteen (18) square feet of floor area, and a solid door and ventilation to the outer air. The entrance to the anteroom shall be at least four (4) feet from the entrance to the toilet room.

*(Added 4–13–1965 by O–9194 N.S.)*

#### **§42.0109 Food Handling Establishments — Protection of Food**

All foods or beverages in the process of preparation, distribution or display, must be securely protected from flies, dust, air and other foreign, injurious contamination.

*(Added 2–10–1953 by O–5486 N.S.)*

#### **§42.0110 Food Handling Establishments — Clothing of Employees**

All uniforms, clothing or aprons worn by persons employed in serving or handling or preparing food for human consumption, shall be made of washable material and shall be kept clean at all times.

*(Added 2–10–1953 by O–5486 N.S.)*

**§42.0111 Food Handling Establishments — Animals Prohibited**

No person shall bring any dog, cat or other live animal nor shall the owner, operator, or any other employee of a food handling establishment permit any dog, cat or other live animal to be brought into or to remain in any food handling establishment. This section shall not apply to dogs trained to guide the blind when in the custody or control of or being used by a blind person or person with defective eyesight.

*(Amended 4-7-1959 by O-8086 N.S.)*

**§42.0112 Food Handling Establishments — Separate Sleeping and Living Quarters in Establishments Required**

Employee and owner living and sleeping quarters and all articles used in connection therewith shall be separated from the establishment by a solid partition. No couch, cot or bed provided in employee rest areas shall be maintained or kept in any room of the establishment where food is prepared, stored, served or displayed.

*(Retitled to "Food Handling Establishments— Separate Sleeping and Living Quarters in Establishments Required" and amended 4-13-1965 by O-9194 N.S.)*

**§42.0112.1 Food Handling Establishments — Dressing Room**

Establishments shall provide a room or enclosure, separated from toilets and food storage and preparation areas, in which employees may change and store clothing; no person shall change or store clothes elsewhere in an establishment.

*(Added 4-13-1965 by O-9194 N.S.)*

**§42.0113 Food Handling Establishments — Sawdust Regulated**

No owner, proprietor, manager or employee of such establishment shall provide or use on the floors, any sawdust, or similar material, except that butcher shops may use sawdust on floors in a cooler or behind a counter.

*(Added 2-10-1953 by O-5486 N.S.)*

**§42.0114 Food Handling Establishments — Boxes, Containers — Regulated**

All surplus boxes, crates, lug boxes, and similar containers in which fruits, vegetables and other products are delivered or received by Food Handling Establishments, shall be kept in orderly condition, and shall not be allowed to accumulate on the premises. Each container shall be kept in a clean and sanitary condition and removed from the premises daily, or at intervals determined by the Health Officer.

*(Added 2-10-1953 by O-5486 N.S.)*

**§42.0115 Food Handling Establishments — Newspaper Wrapping — Regulated**

The use of newspapers for wrapping fruits, vegetables, or other food products is prohibited unless such fruits, vegetables or other food be first wrapped in clean wrapping paper.

*(Added 2-10-1953 by O-5486 N.S.)*

**§42.0116 Food Handling Establishments — Garbage Cans, Screen Rooms Required — Garbage — Regulated**

Each establishment shall have sufficient garbage and trash containers, constructed of metal or other approved material, with fly-tight covers, to contain all garbage, trash or other refuse. Garbage and trash containers shall be maintained in a sanitary condition and in good repair. A smooth concrete foundation or an equivalent, approved by the Health Officer, shall be provided for outside garbage and trash containers. A fly-tight screen room constructed of not less than 14" wire mesh shall be provided in establishments having excess vegetable trimmings or other waste subject to decomposition. Excess waste material shall remain in screen rooms until removed from the premises. The lower three (3) feet of wall space in screen rooms shall be constructed of smooth washable material and maintained in good repair. All garbage or food waste products subject to fermentation or decomposition shall be removed daily.

*(Amended 4-13-1965 by O-9194 N.S.)*

**§42.0118 Food Handling Establishments — Special Regulations**

Establishments shall comply with the following regulations:

- (a) **CANOPIES FOR RANGES.** Stoves, ranges, cooking kettles, doughnut kettles, ovens and hot plates shall be equipped with a metal canopy which overhangs the cooking device by at least six (6) inches on all sides except as provided in subsection (i). Such canopy shall be ventilated to the outside air by an independent ventilating flue of sufficient size to remove smoke and aerosols. Hoods (canopies) and mechanical ventilation equipment shall provide air circulation in accordance with minimum standard ventilation tables maintained by the Health Department.
- (b) **SINKS.** Sinks shall be constructed of metal or other approved material and shall be provided with hot running potable water at all times. The number and type of sinks shall be designated by the Health Officer.

- (c) **MULTIUSE UTENSILS.** Dishes, glasses, and other utensils which are cracked, chipped or damaged shall be destroyed or removed from the premises of an establishment by the owner or manager.
- (d) **HEADDRESS REQUIRED.** Persons engaged in cooking, preparing, or serving food, shall wear a cap or headdress approved by the Health Officer.
- (e) **FOOD CONTAINERS.** No tin can, lard stand, or other such container shall be used for cooking, preparing or storing food stuffs. The Health Officer shall condemn and destroy all food stored contrary to the provisions of this section.
- (f) **PROTECTION FOR FOOD SUPPLIES.** No food or food product shall be stored less than four (4) inches from the surface of the floor.
- (g) **SCREENS.** Establishments shall have wire screens of not less than 14" mesh covering all outside openings.

All screen doors shall open outward and be self-closing. Fly fans may be substituted for screen doors and, when used, shall be installed over door openings so that the air flow is directed downward and outward. Fly fans shall produce an air flow with a minimum velocity of seven hundred fifty feet (750') per minute for the entire door opening from the top thereof to a point not less than three (3) feet above the floor.

- (h) **PROTECTION FOR STRAWS.** Straws shall be protected so as to prevent contamination prior to use.
- (i) **COOKING AT TABLES.** Single burner electric hotplates are not required to be vented pursuant to subsection (a) if (1) the food prepared thereon is served at a single table seating not more than ten persons, (2) broiling or frying does not exceed three minutes, (3) the room is equipped with mechanical ventilation sufficient to remove smoke and aerosols created by unvented cooking, and (4) the establishment holds a special permit issued without charge by the Director of Public Health authorizing unvented cooking.

*(Amended 4-13-1965 by O-9194 N.S.)*

#### **§42.0121 Food Handling Establishments — Outside Storage Prohibited**

No food, food product, fruit or vegetable shall be displayed or sold outside of any structure or on any sidewalk, street, highway or public right of way, except as otherwise provided in this Chapter.

*(Retitled to "Food Handling Establishments— Outside Storage Prohibited" and*

*amended 4-13-1965 by O-9194 N.S.)*

**§42.0123 Food Handling Establishments — Opening and Replacing Food or Beverage Packages Prohibited**

In a store where packaged food or beverages are offered for sale it shall be unlawful for any unauthorized person to unwrap, unseal or open any food or beverage package and replace that package on display so as to be available for sale to others. This section shall not apply to persons opening containers of fresh eggs, or bulk foods.

Signs advising the public of the provisions of this section shall be clearly and conspicuously located at the main entrances to all grocery stores so as to be visible to all persons entering the store. Such sign shall read, "For everyone's health and safety, it is unlawful to open or tamper with food containers prior to purchase. Municipal Code Section 42.0123."

*("Food Handling Establishments— Opening and Replacing Food or Beverage Packages Prohibited" added 9-12-1983 by O-16033 N.S.)*

**§42.0124 Food Handling Establishments — Honey and Beverages — Bottling Required**

All fruit juices, soft drinks, honey or other such beverages or foods shall be bottled in a regularly inspected plant, and shall not be poured or changed from one container to another except in said plant.

*(Added 2-10-1953 by O-5486 N.S.)*

**§42.0125 Food Handling Establishments — Wineries and Cider Mills — Regulations**

- (a) All mills where wine or cider is in the process of preparation shall have cement floors properly drained, and a sink properly installed and provided with running water.
- (b) All bottles, jugs or receptacles shall be thoroughly washed and sterilized, and shall be supplied with new corks and stoppers.
- (c) All pulp shall be disposed of by a method approved by the Health Department.
- (d) All wineries and cider mills shall be equipped with a conveniently located water flush toilet complying with the provisions of this Code.

*(Added 2-10-1953 by O-5486 N.S.)*

**§42.0126 Food Handling Establishments — Regulations for the Sale of Fruits, Vegetables and Farm Produce**

Fruits, vegetables and other farm produce may be sold to the public from the property on which grown.

Each establishment shall obtain a Health Permit without charge.

*(Retitled to "Food Handling Establishments – Regulations for the Sale of Fruits, Vegetables and Farm Produce" and amended 4–13–1965 by O–9194 N.S.)*

**§42.0127 Vending Machines Dispensing Liquids and/or Unwrapped Nonliquid Food Products**

No operator, as defined in Section 42.0127.1, shall maintain, conduct, manage or operate any vending machine without complying with the provisions of this Article. An applicant for a permit shall designate in writing all liquid products and/or unwrapped nonliquid food products which the applicant proposes to sell or vend. A permit shall be denied when in the opinion of the Health Officer, the construction or location of a vending machine will inhibit proper sanitary maintenance. Permits issued under the provisions of this section shall be valid only for the sale or handling of products designated in writing on the permit.

*(Amended 4–13–1965 by O–9194 N.S.)*

**§42.0127.1 Vending Machines Dispensing Liquids and/or Unwrapped Nonliquid Food Products — Operator Defined**

The term OPERATOR means any person who, by contract, agreement, or otherwise furnishes, installs, services or takes responsibility for the proper operation and maintenance of a vending machine.

*(Amended 4–13–1965 by O–9194 N.S.)*

**§42.0127.2 Vending Machines Dispensing Liquids and/or Unwrapped Nonliquid Food Products — Location**

- (a) Vending machines shall be readily accessible to facilities for emptying waste containers, cleaning drip pans, and hand washing.
- (b) The location of all vending machines shall be reported to the Department of Public Health within seventy-two (72) hours after installation. If a location is not approved by the Health Officer, the operator shall immediately remove the vending machine from service until relocated at an approved site.

*(Amended 4-13-1965 by O-9194 N.S.)*

**§42.0127.3 Vending Machines Dispensing Liquids and/or Unwrapped Nonliquid Food Products — Service Rooms**

- (a) All vending machine operators shall establish within the County of San Diego a service room or rooms which shall be used only for cleaning, storage and maintenance of vending machines, supplies, and sanitized parts.
- (b) Cleaning and sanitizing of vending machine parts which come in contact with food shall be done in a service room provided for that purpose.
- (c) Service rooms shall contain sanitary storage facilities for foodstuffs.
- (d) Service rooms shall comply with the provisions of this code governing food establishments.
- (e) Service rooms shall contain facilities for washing, sanitizing and servicing parts of vending machines, including a three-compartment sink with running hot water.
- (f) Service room floors shall be constructed of smooth concrete, tile or equivalent material, impervious to water, and properly sloped to drain. Exposed wood surfaces shall be painted with oil paint. Walls and ceilings shall be constructed of a smooth, washable, waterproof material. Walls and ceilings shall be kept free of cracks.
- (g) All openings to the outer air shall be protected to prevent the entry of dust, dirt, or flies.

*(Amended 4-13-1965 by O-9194 N.S.)*

**§42.0127.4 Vending Machines Dispensing Liquids and/or Unwrapped Nonliquid Food Products — Design and Construction**

- (a) The dispensing area of a vending machine shall be protected from dust, dirt and insect contamination by sliding panels or suitable self-closing devices.
- (b) The name, address and telephone number of the operator shall be posted in a conspicuous place on each vending machine.
- (c) All vending machines shall be designed so that the food container may be exchanged for one previously cleaned and filled in the service room.

*(Amended 4-13-1965 by O-9194 N.S.)*

**§42.0130 Food Handling Establishments — Sanitation Requirements — Food Vending Vehicles**

- (a) As used in this section the term "vending vehicle" means any vehicle selling, or offering to sell food or beverages to the public. It also includes a "mobile food preparation unit" as defined in Health and Safety Code section 27526 and "vehicles" as defined in Health and Safety Code section 27540 vending prepackaged food and approved unpackaged food.
- (b) Owners and operators of vending vehicles shall, in addition to the following requirements, comply with the provisions of the Health and Safety Code, Titles 17 and 25 of the California Administrative Code and this Article as applicable.
- (1) Every owner or operator of vending vehicles shall have a service room or other sanitary location approved by the Director of Health Services for the preparation of food sold from vending vehicles. Only food prepared in the service room or other approved location shall be sold from a vending vehicle. Service rooms or other approved locations shall comply with regulations for food handling establishments. A headquarters shall be established for all vending vehicles. All vehicles upon which food is prepared as defined in section 27522 of the California Health & Safety Code shall be stored at the headquarters when not in use. Vehicles which transport and sell nonfrozen potentially hazardous foods as defined in section 27531 of the California Health & Safety Code shall be stored at the headquarters when the vehicle is not in use.
  - (2) If the Director of Health Services certifies that an owner or operator of vending vehicles continuously maintains all perishable food intended for sale from a vending vehicle at a temperature of not more than 45 degrees Fahrenheit, from the time of preparation until service to the consumer, such food may be sold for a period not exceeding seventy-two (72) hours after preparation.
  - (3) All packaged perishable food shall be clearly marked with the last date the food may be sold.
  - (4) Vending vehicles shall dispense only single-service disposable cups, plates, forks and spoons.

- (5) No person shall operate, or cause to be operated, a food vending vehicle upon which is carried cold perishable foods unless it is furnished with mechanical refrigeration equipment, in good working order, sufficient to maintain perishable food and beverage products at a temperature not in excess of 45 degrees Fahrenheit, except that frozen perishable foods may be refrigerated with dry ice.
- (6) Nothing in this section shall prohibit the operation of a food vending vehicle equipped to manufacture ice cream provided the vehicle complies with all of the requirements pertaining to such vehicle contained in the California Health & Safety Code, the California Agriculture Code and California Administrative Code Titles 3, 17 and 25.
- (7) Every owner or operator of vending vehicles upon request of the Health Officer's agents shall provide an itinerary of each vending vehicle including address of regular stops and arrival times at each regular stop.

It shall be a misdemeanor to violate any of the requirements of this section.

*(Amended 12-8-1986 by O-16769 N.S.)*

#### **§42.0130.1 Food Vending Vehicles — Special Event Exceptions**

Notwithstanding the provisions of Section 42.0130;

- (a) As used in this section, the term "vending vehicle" means any vehicle selling or offering for sale prepackaged food or beverages to the public. It also includes "vehicles" as defined in Health and Safety Code section 27540 vending prepackaged and approved unpackaged food.
- (b) As used in this section, the term "mobile food preparation unit" means any wheeled vehicle upon which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned for service, sale or distribution on board the vehicle to the public. It also includes a "mobile food preparation unit" as defined in Health and Safety Code section 27526.
- (c) "Organized gathering" means any special event such as fairs, circuses, carnivals, rodeos, parades, sports tournaments, swap meets or other similar events open to the public or other event designated by the City Manager as an organized gathering.

- (d) The Health Officer may permit vending vehicles or mobile food preparation units to be operated at organized gatherings to which the public may attend by discretion or by invitation.
- (e) This section does not include mobile food units, which are defined and regulated under the provisions of Sections 42.0160 through 42.0168.
- (f) Owners and operators of vending vehicles and mobile food preparation units shall, in addition to the following requirements, comply with the provisions of this Article as applicable:
  - (1) Adequate toilet facilities shall be provided for the employees of a vending vehicle or mobile food preparation unit, as prescribed in the California Administrative Code, Title 17, Chapter 5, Article 10, section 13609(g). In no cases shall a toilet facility be used which is located in a private home, dwelling or residence.
  - (2) Any mobile food preparation unit shall comply with the requirements of the California Administrative Code, Title 17, Chapter 5, Articles 10 and 10.1, commencing with sections 13600 through 13616, and the requirements of the San Diego County Code of Regulatory Ordinances commencing with section 61.178 through 61.179.
  - (3) Any vending vehicle shall comply with the requirements of Section 42.0130, and shall be kept clean and sanitary.
  - (4) In addition to the Health Permit for the vehicle, a separate Health Permit shall be required for each site the vending vehicle or mobile food preparation unit sells, offers for sale, distributes or gives away food at each organized gathering. The site permit shall be issued for a ninety calendar day period of which said permit may be renewed at the end of such time for an additional ninety day calendar period. The applicant may renew said site permit without limitation. The fees, sufficient to cover costs of investigation and enforcement of the provisions of this Division, the exact amount of which shall be determined by the County, shall be paid by the person applying for the permit at the time of application. As a condition of said permit, the permittee shall notify the Health Officer of any intended operation of the vending vehicle or mobile food preparation unit at least five (5) days prior to said operation. In addition, the applicant shall file with the Health Officer, written permission from the person in charge of the toilet facility at the permitted site, for food-handlers who operate the

vending vehicles or mobile food preparation units to use said toilet facilities during all times the vehicle or unit is in operation. The permit is not transferrable and is valid only for the specific site for which said permit is issued.

- (5) In the event that it is the intent of the vending vehicle or mobile food preparation unit operator to use a specific vehicle or unit at more than one organized gathering at separate sites, a separate Health Permit for each site shall be obtained, fees paid and approvals granted for each organized gathering. The times in which the vending vehicle or mobile food preparation unit is to be on site shall be indicated on the permit, and the vehicle or unit shall operate only within those specified times.
- (6) All such vending vehicles or mobile food preparation units shall be removed from the site of the organized gathering at the conclusion of the day's events or as may be required, to the approved commissary or headquarters location for the purposes of servicing, cleaning and restocking the vehicle or unit or providing any other types of services required to keep the vehicle or unit in a clean and sanitary manner and in good repair.

Any mobile food preparation unit which is connected to on-site potable water, power and approved sewage systems will not be required to be removed to the commissary location as stipulated. The electrical connection shall be made by means of a single continuous supply cord of a size and type recommended or approved by the coach manufacturer. The sewage disposal shall be by means of a permanently installed receptor. The Department of Health Services may require the licensee of the mobile food preparation unit to furnish verification by a licensed contractor that the water, power and/or sewage disposal systems are being maintained in a manner consistent with the public health and safety. Any vehicle used for the transportation of food, supplies or related items in the support of a mobile food preparation unit or vending vehicle, shall have a separate permit issued by the Health Officer, and meeting all applicable requirements.

*(Amended 12-8-1986 by O-16769 N.S.)*

#### **§42.0130.2 Mobile Food Preparation Units— Regulations**

- (a) As used in this section, the term "mobile food preparation units" shall be the same as defined in section 27526 of the California Health and Safety Code.
- (b) Owners and operators of mobile food preparation units shall, in addition to the following requirements, comply with the provisions of this Article as

applicable.

- (1) Vehicle ambient air temperature shall be maintained in each work area to provide reasonable comfort consistent with standards of the restaurant industry for the nature of the process and work performed. If excessive heat or humidity is created, the owner or operator of the mobile food preparation unit shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort.
- (2) Mobile food preparation units shall be equipped with at least one seat with backrests for each employee to be transported in such units. Said seats shall be properly secured in place. Seats shall not be less than fifteen (15) inches or more than nineteen (19) inches above the floor, at least ten (10) inches deep, at least eighteen (18) inches wide. The backrests shall extend to a height of at least thirty-six (36) inches above the floor. Seats shall be provided with seat belts as required by the California Vehicle Code.
- (3) All cutting tools or tools with sharp edges carried in a mobile food preparation unit shall be placed in covered boxes or containers while the unit is in motion, and all other tools and cooking equipment shall be secured to the body of the vehicle while the unit is in motion. Tools with cutting edges protected by scabbards or similar guards shall be considered as being in containers.
- (4) An alternate means of exit, other than the main exit door, shall be provided in the exterior wall and in the roof of the vehicle with unobstructed passages to the outside. Such passage shall be at least twenty-four (24) inches by twenty-four (24) inches or adequate for unrestricted egress by an adult. The alternate means of exit shall have an interior latching mechanism which shall be operated by hand without special tools or key. Such exit shall be labeled "safety exit" in contrasting colors with letters at least one (1) inch high.
- (5) All loads carried in a mobile food preparation unit shall be secured against dangerous displacement either by proper piling or securing in a manner as to prevent shifting, toppling or otherwise becoming unstable.
- (6) No cooking or food preparation shall be done while the mobile food preparation unit is in motion.

- (7) A headquarters shall be established for all mobile food preparation units and said units shall be stored at such headquarters when not in use.
- (8) The headquarters parking area for mobile food preparation units shall be paved with a paving material such as concrete or asphalt. The surface of the paving shall slope to drain and shall not pond water. Said surface shall be kept in good repair. The storage area shall contain a liquid waste dump station, and there shall be installed a concrete apron surrounding the waste receptor for a distance of ten (10) feet in each horizontal direction sloping to the drain.
- (9) Waste water shall not be permitted to flow into the street from the headquarters parking area.
- (10) Lights shall be provided for the parking area to provide at least two (2) foot candles of illumination when measured thirty (30) inches above the pavement.
- (11) Mobile food preparation units which do not properly control food temperature, which lack running water, which have a defective liquid waste collection tank or which otherwise are unable to operate in a sanitary manner so as to pose an immediate danger to the public health may be removed from operation by order of the Health Officer or his designated representative.

*(Added 3-3-1986 by O-16603 N.S.)*

#### **§42.0130.3 Mobile Food Preparation Units to Comply with State Law**

All mobile food preparation units shall bear an insignia of approval or other proof of approval issued by the State of California to indicate compliance with all applicable laws and regulations of the State of California.

*(Added 3-3-1986 by O-16603 N.S.)*

#### **§42.0132.1 Restriction on Vehicle Use**

Food vending vehicles shall not be used for a purpose not designated by this Division, unless approved in writing by the Health Officer.

*(Added 4-13-1965 by O-9194 N.S.)*

#### **§42.0132.2 Authority to Arrest**

The Health Officer and any officer or employee designated by him is hereby authorized to arrest a person without a warrant whenever he has reasonable cause to believe that the person to be arrested has committed a misdemeanor in his presence, which is a violation of any statute or ordinance, or regulation relating to the operation of mobile food preparation units which the Health Officer or such officer or employee has the duty to enforce, including but not limited to provisions of the State of California Health and Safety Code, provisions of the California Administrative Code, and all City ordinances relating to mobile food preparation units. In any case in which a person is arrested pursuant hereto and the person arrested does not demand to be taken before a magistrate, the public officer or employee making the arrest shall prepare a written notice to appear and release the person on his promise to appear, as prescribed by Chapter 5C (commencing with section 853.6) of the Penal Code. The provisions of said Chapter 5C shall thereafter apply with reference to any proceeding based upon the issuance of the written notice to appear. Authority to arrest is granted in accordance with Penal Code section 836.5.

*(Added 3-3-1986 by O-16603 N.S.)*

### **§42.0132.3 Responsibility for Violations**

The owners, managers or operators of any food vending vehicle are responsible for the violation of any provisions of this Article by their servants, agents or employees, and any permit may be suspended or revoked, as appropriate, for such violations. It shall be a misdemeanor to knowingly violate any of the provisions of this Article.

*(Added 3-3-1986 by O-16603 N.S.)*

### **§42.0146 Refrigeration and Locker Plants — Regulated**

Health Regulated Businesses shall include refrigeration plant or locker plant as defined in this chapter.

*(Added 2-10-1953 by O-5486 N.S.)*

### **§42.0147 Refrigeration and Locker Plants — Stamping of Meat Required**

All uninspected beef, veal or lamb kept or placed in any refrigeration plant shall be stamped immediately upon arrival with a roller stamp so as to be legibly marked "Uninspected Meat — Not for Sale." All uninspected pork kept or placed in any refrigeration plant shall be stamped immediately upon arrival with a hot stamp so as to be legibly marked "Uninspected Meat — Not for Sale." Every stamp required by this section shall also legibly show the plant permit number issued the plant by the Director of Public Health.

*(Added 2-10-1953 by O-5486 N.S.)*

Ch.	Art.	Div.	
4	2	1	20

**§42.0148 Refrigeration and Locker Plants — Hides or Bill of Sale Required — Exceptions**

No beef, veal or lamb carcasses, or part thereof, shall be accepted unless the hide accompanies the carcass, or unless a bill of sale from a responsible packing plant accompanies such carcass. A record of the disposition of each such hide shall be maintained by the refrigeration or locker plant; provided however, that this section shall not apply to carcasses of deer, game or fowl.

*(Added 2-10-1953 by O-5486 N.S.)*

**§42.0149 Refrigeration and Locker Plants — Processing Days Designated**

Every refrigeration plant handling or processing inspected and uninspected meat shall designate different days of the week upon which inspected meat will be processed and uninspected meat will be processed, and shall notify the Department of Public Health in writing of such designation, and of any change thereof together with the effective date of such change. It shall be unlawful for any refrigeration plant to process both inspected and uninspected meat on the same day, except with the permission of the Department of Public Health.

*(Added 2-10-1953 by O-5486 N.S.)*

**§42.0150 Refrigeration and Locker Plants — Processing of Game Regulated**

The handling of deer, game or fowl shall be classified as handling of uninspected meat and shall be processed as required in section 42.0149.

*(Added 2-10-1953 by O-5486 N.S.)*

**§42.0151 Refrigeration and Locker Plants — Certificate and Report of Physical Examination — Employee List Required**

No person shall act as or be engaged as a Food Handler in a refrigeration and locker plant regulated in Section 42.0135 unless such person holds a Physical Examination Certificate and has passed the medical examination required by Section 41.09.

The owner, proprietor, or manager of the Health Regulated Businesses enumerated in Section 42.0101 shall furnish a list of employees as established by Section 41.16.

*(Added 5-11-1954 by O-6103 N.S.)*

**§42.0160 Mobile Food Units — Definitions**

- (a) MOBILE FOOD UNIT means any food establishment which is readily movable, including, but not limited to, pushcarts and stands, and on or in

which food is prepared, stored, displayed, served, distributed, transported, offered for sale or sold at retail or given away without charge. Mobile food unit shall not include food vending vehicles, regulated by Section 42.0130 of this Code; mobile food preparation units, regulated by Title 17, Chapter 5, Subchapter 2, Group 1, Article 10 of the California Administrative Code; or commercial coaches regulated by Title 25, Chapter 3, Subchapter 2, Articles 3 and 3.5 of the California Administrative Code.

- (b) NON-POTENTIALLY HAZARDOUS FOOD means food which is not potentially hazardous as defined in Section 28810 of the Health and Safety Code. It includes popcorn, peanuts, pretzels, or other foods approved by the San Diego Department of Health Services.
- (c) POTENTIALLY HAZARDOUS FOOD means any food which is capable of supporting the growth of infectious or toxicogenic microorganisms when held at temperatures above 45 degrees Fahrenheit.

*(Added 8-16-1982 by O-15803 N.S.)*

#### **§42.0161 Mobile Food Units — Operating Requirements**

- (a) Mobile food unit operations are limited to one or more of the following:
  - (1) The serving of non-potentially hazardous or commissary wrapped food.
  - (2) The preparation and serving of hot dogs.
  - (3) The serving of beverages dispensed from a closed carbonation system.
  - (4) The serving of food or beverages in hermetically sealed cans or bottles.
  - (5) The serving of packaged ice cream.
- (b) During operation, no food shall be stored, displayed, or served from any place other than on the mobile food unit. All food supplies, and eating, drinking and other utensils shall be kept on the mobile food unit. No auxiliary tables, utility carts or any other items not contained in or on the mobile food unit shall be used in conjunction with the dispensing of food.
- (c) Spare tires, related automotive equipment, tools relating to the mechanical operation of the mobile food preparation unit, or other items extraneous to the vending of food, shall not be stored in the food preparation or food storage

areas.

- (d) During transportation and storage mobile food units shall be protected from contamination.
- (e) Food condiments shall at all times be protected from contamination and, where available for self-service, shall be prepackaged.
- (f) Potentially hazardous foods shall be maintained at temperatures at or below 45 degrees Fahrenheit, or at or above 140 degrees Fahrenheit.
- (g) Operators shall wear clean outer garments and keep themselves clean while handling food, utensils or food equipment. Proper hair restraint shall be worn by food handlers. No food unit operator shall use tobacco in any form while operating food unit.
- (h) Utensils shall be used for dispensing food and shall be kept clean and in good repair.
- (i) Only single service utensils or containers may be provided for customer use and such articles shall be stored in their original, enclosed packages and kept free of contamination. They shall be kept in an enclosed dispenser for customer use. Straws shall be wrapped or dispensed from a sanitary dispenser.
- (j) All food shall be displayed, stored, dispensed and handled so as to minimize manual contact.
- (k) All mobile food unit surfaces and equipment shall be kept clean and in good repair.
- (l) Mobile food units shall operate from a commissary as defined in Section 28536, California Health and Safety Code, and shall be stored at the commissary when not in use. Commissaries shall have ample space to store and clean all mobile food units operated from them.
- (m) Mobile food units shall be thoroughly cleaned at the commissary after each day's use and shall be clean before each day of operation. Food products which are left after closing each day shall be properly stored and kept at proper temperatures.
- (n) The waste tank shall be emptied only at the commissary or at a location approved by the Health Officer.

- (o) Supplies shall be loaded on the mobile food units only at the commissary or from a service vehicle at the vending location. Any service vehicle providing additional food to a mobile food unit must itself have a valid mobile food unit permit and shall operate from a commissary as defined by Section 28536, California Health and Safety Code.
- (p) Persons who dispense food from a mobile food unit must provide or have available in a conspicuous place in the immediate vicinity of the unit a litter receptacle which is clearly marked with a sign requesting its use by patrons of the permittee or operator.
- (q) Each person operating a mobile food unit shall pick up, remove and dispose of all trash, refuse or litter consisting of materials at one time dispensed from the food unit, and any residue deposited on the street from the operation thereof, and shall otherwise maintain in a clean and debris-free condition the entire area within a 25-foot radius of the location where vending is occurring.

*(Added 8-16-1982 by O-15803 N.S.)*

#### **§42.0162 Mobile Food Units — Sanitation**

- (a) All ingredients used in the preparation of foods or beverages, and all foods or beverages offered for sale, sold, or served from a mobile food unit shall meet each of the following criteria:
  - (1) Be manufactured, produced, prepared, compounded, packed, stored, transported, kept for sale, and served so as to be pure and free from adulteration, contamination, or spoilage.
  - (2) Be otherwise fit for human consumption.
- (b) No food, beverage or ingredient prepared or stored in a private home shall be offered for sale, sold, or given away from a mobile food unit.

*(Added 8-16-1982 by O-15803 N.S.)*

#### **§42.0163 Mobile Food Units — Construction and Equipment Requirements**

- (a) Equipment, including the exterior of the mobile food unit and the interior of cabinets or storage compartments, shall be constructed so as to have smooth, easily accessible, and easily cleanable surfaces free from channels, crevices, flanges, ledges, sharp or jagged edges, or other cleaning obstructions. Unfinished wooden surfaces are not permitted. Food contact surfaces shall be constructed of metal, high pressure laminated plastics, or hardwood. These

surfaces shall be free of cracks, rust, and other obstructions which would interfere with proper cleaning. All equipment shall be made of nontoxic materials.

- (b) All equipment shall be so installed as to be easily cleaned, prevent vermin harborage and provide adequate access for service and maintenance. Equipment shall be spaced apart for easy cleaning or shall be sealed together. To provide for sanitary maintenance when equipment is not sealed together there shall be at least three (3) inches of unobstructed space between any piece of food equipment and any adjacent equipment, counter top, or part of the mobile food unit structure except that food equipment or machinery of a size and weight that can easily be picked up and moved by one person, and with flexible connections, need not comply with minimum space requirements. No threads, nuts, or rivets shall be exposed where they interfere with cleaning. Should such threads, nuts, or rivets interfere with cleaning they shall be capped.
- (c) All utensils shall be designed and constructed so as to be easily cleanable and shall be made of nontoxic materials.
- (d) Construction joints and seams shall be tightly sealed and if soldered must be smooth to the touch.
- (e) All tanks, lines, couplings, valves, and any other plumbing shall be designed, installed, maintained, and constructed of materials that will not contaminate the water supply, food, utensils or equipment.
- (f) Space around pipes, conduits, or hoses that extend through cabinets, floors, or outer walls shall be sealed. The seal shall be smooth and easily cleanable.
- (g) Mobile food units whose operations generate waste water, but are not required to comply with the specifications in Section 42.0164, shall be equipped with a waste water tank of at least five (5) gallons capacity which shall receive all drippage and drainage generated by the operation of the mobile food unit.
- (h) Any water or waste water tank, line, coupling, or valve shall be designed, installed, maintained, and constructed so as to prevent leakage or drainage except into leakproof waste tanks.
- (i) Any water, or waste water tank shall be installed so as to be easily drained, flushed and cleaned.

- (j) All pressure cylinders shall be securely fastened to a rigid structure of the mobile food unit. All liquefied petroleum equipment shall be installed to meet fire department standards and other laws that are applicable.

When the mobile food unit is equipped with liquefied petroleum, a minimum 5 B.C.-rated fire extinguisher to combat grease fires shall be installed on the exterior of each mobile food unit in a readily accessible place.

- (k) Adequate and suitable space shall be provided for the orderly storage of food and food service materials.
- (l) A minimum of ten footcandles of illumination shall be provided at all work surfaces whenever the mobile food unit is in operation. Light bulbs and tubes shall be covered with a completely enclosed plastic safety shield or its equivalent. Light fixtures shall be installed so as not to constitute a hazard to personnel.
- (m) Compressor units that are not an integral part of equipment, auxiliary engines, generators, etc., shall be installed in an area that is completely separated from food preparation and food storage and which is accessible from outside the unit for proper cleaning and maintenance.
- (n) The food preparation and storage area shall be so constructed so as to be rodent proof.
- (o) Mobile food units which handle potentially hazardous foods shall be equipped with mechanical refrigeration to maintain such foods at or below 45 degrees Fahrenheit. If such food is to be heated, the mobile food unit shall be equipped with heating equipment to maintain such foods at or above 140 degrees Fahrenheit. No ice or frozen jell packs shall be used to refrigerate potentially hazardous foods except that frozen foods such as ice cream may be refrigerated with dry ice.
- (p) Mobile food units shall be provided with waste receptacles constructed so as to be smooth, nonabsorbent, and easily cleanable.
- (q) Each mobile food unit shall be clearly identified as to business name, address and city of the person owning or operating the unit. Such identification shall be easily legible in letters which contrast with their background and are at least three (3) inches high with a minimum 3/8 inch wide stroke.
- (r) Nothing contained in this section shall be construed to prevent the Director

from establishing lower or less stringent requirements or specifications than those contained herein in such cases where a mobile food unit may be maintained at such lower or less stringent requirements or specifications in a sanitary condition without detriment to the public health or safety.

*(Amended 2-27-1983 by O-15897 N.S.)*

**§42.0164 Mobile Food Units — Construction and Equipment Requirement for Units upon which Unpackaged Foods are Carried**

- (a) Mobile food unit serving area compartments where foods are prepared, portioned, assembled, stored, or displayed, shall be enclosed, shall have tightly fitted exterior doors, shall be free from cracks and crevices, and when closed shall give complete protection from the elements and insects. Food serving area compartments used for hot dogs or other unpackaged foods shall be equipped with an access opening not greater than four (4) square feet. All access doors, ports and hatches shall be self closing by means of spring hinges or the equivalent while not in use.
- (b) Mechanical exhaust ventilation equipment shall be provided over all cooking and heating equipment as required to effectively remove cooking odors, smoke, steam, grease and vapors. Construction of food preparation enclosures shall be such that vapor condensate shall at no time fall into food below. Mechanical exhaust ventilation shall be maintained on at all times so as to remove condensate vapors from enclosed preparation compartments during heating and cooking.
- (c) When utensils are used to prepare, portion or assemble unwrapped foods on a mobile food unit, the unit shall be equipped with a two compartment sink for washing and cleaning utensils. This sink shall be provided with hot running water, at least 120 degrees Fahrenheit, and cold running water through a mixing swing faucet. Each sink compartment shall be at least 10 inches long, 9 inches wide, and 8 inches deep.
- (d) When unwrapped food is carried on a mobile food unit hand washing facilities, including a lavatory supplied with hot and cold running water with a mixing faucet, hand washing detergent or soap, and single-service sanitary towels in permanently installed dispensing devices shall be provided and maintained in each mobile food unit. The hand washing facilities shall be separate from the utensil washing sinks. The lavatory basin must have minimum dimensions of 9 inches long, 9 inches wide, and 5 inches deep. The hand washing facilities shall be separated from the utensil washing sinks by a metal guard with a height of at least three inches, extending from the back

edge of the drainboard to the front edge of the drainboard; the corners of the barrier shall be rounded. No separation barrier is required if the distance between the hand washing sink and the utensil drainboards is one foot or more.

- (e) When sinks or lavatories are installed on a mobile food unit a water supply tank of at least 7.5 gallons capacity and a waste water tank of at least 10 gallons capacity shall be installed. The water tank shall be filled only at the commissary, or a mobile food unit may be connected directly to an approved water supply and sewage disposal system, provided such connections meet Building Code requirements. Such units shall be equipped with a hose or other approved connection to attach to the water system. This connection shall be used for no other purpose and shall be protected from contamination at all times. In order to avoid confusion, all water supply connections shall be green in color. Waste lines shall be a color other than green.
- (f) A hot water heater with a minimum capacity of one gallon, or an instantaneous heater capable of producing water of 120 degrees Fahrenheit interconnected with the potable water supply, shall be provided when hot water is required on the mobile food unit. Hot and cold water, under pressure, shall be provided at hand washing and utensil sinks from mixing faucets.
- (g) Nothing contained in this section shall be construed to prevent the Director from establishing lower or less stringent requirements or specifications than those contained herein in such cases where a mobile food unit may be maintained at such lower or less stringent requirements or specifications in a sanitary condition without detriment to the public health or safety.

*(Amended 2-7-1983 by O-15897 N.S.)*

#### **§42.0165 Mobile Food Units — Duties of Permittees and Operators**

- (a) As a condition of the issuance of a permit, every permittee hereunder, and every person other than a permittee who is operating a mobile food unit pursuant to a valid permit, shall comply with any request of the County Health Officer or his agent in the performance of his or her official duties in the inspection of the permittee's mobile food unit.
- (b) Each permittee or operator shall carry on his or her person a valid California driver's license or California identification card issued by the Department of Motor Vehicles, or other identification approved by the Department of Health Services, and shall present such identification upon request to law enforcement officers of the City or County of San Diego.

- (c) Each person operating a mobile food unit shall prominently display on such unit an original valid permit issued by the Department of Health Services for the vending unit.
- (d) Notwithstanding the issuance of a permit for a specified location no person shall stop or stand a mobile food unit at such location for the purpose of dispensing food under any circumstances in violation of stopping, standing or vending prohibitions or restrictions as provided by State law or the health, safety, traffic, business or other regulations set forth in the San Diego Municipal Code.
- (e) It shall be the responsibility of the operator to assure that patrons of the mobile food unit do not block or interfere with the free use of any public street, road, sidewalk, or other public right-of-way.

*(Added 8-16-1982 by O-15803 N.S.)*

#### **§42.0166 Mobile Food Units — Location of Operation**

- (a) All mobile food units shall operate from a fixed location within 25 feet of a building in which are located toilets and wash rooms meeting the requirements of Section 42.0108 of the San Diego Municipal Code. Hot and cold running water shall be supplied to the hand lavatory. Single service towels and soap stored in wall mounted dispensers shall be available at all times. Written permission for the operators of the mobile food units to use the toilet facilities within the building shall be placed on file with the Department of Health Services, and the mobile food units shall not be operated at any time that the mobile food unit operator does not have free access to the toilet facilities. In the case of an operator who is physically handicapped, strict compliance with the 25-foot distance requirement of this subsection may be waived for good cause by the Health Officer.
- (b) A current list of locations at which a permittee will operate a mobile food unit shall be submitted to the Health Officer. The Health Officer shall be notified in writing within 24 hours whenever a change is made.
- (c) No person shall operate a mobile food unit on any public street, highway, road, parkway, or sidewalk except in a Planned District as expressly permitted by other provisions of this Code. Under no circumstances shall the location or operation of a mobile food unit be permitted to interfere with the free use of the public right-of-way.

*(Added 8-16-1982 by O-15803 N.S.)*

**§42.0167 Mobile Food Units — Health Permit**

A mobile food unit is a health regulated business and a health permit is required as specified in San Diego Municipal Code, Section 41.03.

- (a) A fee for a mobile food unit health permit shall be established by the Health Officer at full cost recovery for inspection services, with inspection frequency being as determined by the Health Officer.
- (b) Each person applying for a mobile food unit health permit, the renewal thereof, change of owner, or change of location shall file with the Department of Health Services an application in such form as prescribed by the Health Officer. The applicant shall specify location, periods of time, and dates or days upon which vending will occur at the specified locations. The application shall be accompanied by:
  - (1) The required permit fee.
  - (2) Written verification from the Development Services Department that, based upon inspection at the time of the initial health permit application, electrical and gas– operated equipment and appliances in the unit bear the label of an approved testing and inspection agency and are installed in accordance with the manufacturer’s recommendation. Such written verification shall not be issued by the Development Services Department until a fee, the amount to be established by the City Manager and filed in the office of the City Clerk, has first been paid to the City Treasurer.
  - (3) A letter from the operator of the commissary where the mobile food unit will be stored, cleaned, loaded and serviced indicating that such functions will be performed as required by this ordinance and certifying that the facilities and operations of the commissary comply with all State and local health laws.
- (c) When the Health Officer determines that all provisions of the Code are complied with, he or she shall issue a permit to the applicant for each individual mobile food unit. A permit granted pursuant to this section shall be issued only to the owner or lessee of the mobile food unit and shall be nontransferable.

*(Amended 7–25–1994 by O–18088 N.S.)*

**§42.0168 Mobile Food Units — Revocation of Permits**

- (a) Grounds. The Health Officer may revoke or suspend any mobile food unit permit on any of the following grounds:
  - (1) Violation of any of the provisions of this ordinance.
  - (2) The public interest and safety require that the mobile food unit no longer be permitted to use a location.
  - (3) Violation of any State or County health regulation.
  - (4) Nonpayment of fees.
  - (5) The applicant has knowingly made any false, misleading or fraudulent statement of material fact in the application for the permit.
  - (6) Refusal to allow the County Health Officer or his agent to inspect the mobile food unit.
- (b) In the event any permittee or operator refuses to allow the County Health Officer or his agent to inspect a mobile food unit in the course of the performance of his or her official duties, all permits issued to such permittee shall be suspended and shall remain suspended until such time as consent is given to such inspection, subject to the following specified procedure:
  - (1) Upon refusal by a permittee to allow the County Health Officer or his agent to inspect a mobile food unit, the Health Officer or his agent shall serve notice upon the permittee in writing that all permits held by the permittee are suspended forthwith. Said notice shall state the date of mailing or date of service thereof, the basis for the suspension and that the permittee is entitled to a hearing on the matter upon application to the Health Officer.
  - (2) In the event the Health Officer revokes or suspends a permit pursuant to Subsection A of this section, the permittee shall be entitled to a hearing before the Health Officer, his agent, or a hearing officer designated thereby, provided that an application for such a hearing is submitted to the Health Officer within 10 days of the mailing or service of the notice of suspension. In the event an application for hearing is filed the Health Officer shall set the time of the hearing

within 10 days of receipt of the application for hearing. The hearing may be continued for good cause. After the hearing, the Health Officer may approve, revoke, or suspend the permit and shall thereafter notify said permittee of his or her determination.

- (3) All notices mailed under Subsection B shall be deposited in the United States mail in a sealed envelope, postage paid, addressed to the person involved at the person's last business address as it appears on the records of the Department of Health Services.

*(Added 8-16-1982 by O-15803 N.S.)*

#### **§42.0170 Plastic Food Containers— Definitions**

In this Division the following definitions shall apply:

"Polystyrene Plastic" means a thermoplastic petrochemical material utilizing a styrene monomer and a blowing agent compound which is used to produce molded expanded or extruded expanded polystyrene plastic foam.

"Polystyrene Food Packaging" means a thermoplastic petrochemical material utilizing a styrene monomer and blowing agents used for packaging and containing food and drink materials, including, but not limited to, cups, bowls, plates, hinge carry out and sandwich containers, egg cartons, and stock food containers.

*(Renumbered from Sec. 45.0201 and retitled on 3-8-1994 by O-18049 N.S.)*

#### **§42.0171 Plastic Food Containers— Prohibitions as to Certain Polystyrene**

On or after January 1, 1989, it shall be unlawful to manufacture, sell or distribute to any person in this City any polystyrene food packaging product made of or with polystyrene plastic using a fully—halogenated chlorofluorocarbon (CFC—12 dichlorodifluoromethane), except with the authorization of the City Manager.

*(Renumbered from Sec. 45.0202 and retitled on 3-8-1994 by O-18049 N.S.)*

#### **§42.0172 Plastic Food Containers— Exemptions**

- (a) The City Manager may exempt an item or type of polystyrene packaging from the requirements of this Division, upon a showing that the item or type has no acceptable non—CFC processed equivalent.
- (b) Polystyrene food packaging manufactured prior to January 1, 1989 is exempt from the provisions of this ordinance.

*(Renumbered from Sec. 45.0203 and retitled on 3-8-1994 by O-18049 N.S.)*

**§42.0173 Plastic Food Containers— Penalty**

In addition to any other applicable civil or criminal penalty, any person convicted of a violation of Section 42.0171 is guilty of an infraction, which is punishable by a fine not to exceed \$50.00 for the first violation, \$100.00 for the second violation within one (1) year, and \$250.00 for each additional violation within one (1) year. Each incident in violation of Section 42.0171 shall constitute a separate violation.  
*(Renumbered from Sec. 45.0204 and retitled on 3–8–1994 by O–18049 N.S.)*